Georgian Foundation of Strategic and International Studies
Georgia's Poisoned Soil – Will Zero Tolerance Policing Work?
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Introduction: Zero Tolerance

In his annual address the Georgian President, Mikheil Saakashvili, put forward a policy of zero tolerance. 'I am announcing a new draft law with zero tolerance for petty crimes….There will be no probation sentences… Everyone who commits these crimes will go to prison.' In order to accommodate a burgeoning prison population, and so as not to strain the already existing prisons, Saakashvili will have a new 3,000 capacity facility built for these petty criminals. Other legislation gives the police the power to shoot a person caught committing a crime if they then resist or are threatening to the police. On Independence Day Saakashvili reiterated his faith in his policy. 'We want…zero tolerance…towards petty crime. And this works. It is a fact that it works.' In reality, whether or not zero tolerance works is highly contentious.

Is the New Policy Backfiring?

A shootout in downtown Tbilisi on May 2 brought the consequences of such a policy into sharp relief. Police opened fire on a car while giving chase to supposed bandits on their way to commit a robbery. They continued shooting even after the car had crashed into a tree. This was apparently in response to hostile return fire, though whether the bandits shot back or not has been disputed by eyewitnesses. The operation ended in the death of two of the bandits and put a third, a 20-year-old with a wife and two children, in hospital with grave injuries.

On top of this, since Saakashvili's address in February the law enforcement agencies, from a range of ministries but mainly from the Interior Ministry, have found themselves in the headlines more and more, accused of a wide spectrum of outrages. Current allegations include the kidnapping of a 17 year old girl in Gori, illegally confiscating cars in Batumi, handing out beatings, inciting the March prison riot, shooting each other by accident, and the now infamous murder of banker Sandro Girgvliani by high-ranking officials. Not to be outdone, the Finance Ministry's police arm is also embroiled in a scandal concerning the smuggling of oil from Azerbaijan that may have led to the intimidation and death of a whistleblower. Meanwhile at the very same time the chief of the Finance Police, Zurab Arsoshvili, is accused of beating up a man who was being detained on suspicion of smuggling.

The last case brings out what many see to be the inherent hypocrisy in adopting a zero tolerance policy on crime in Georgia: is it right to give extraordinary powers to a police force that continually proves itself to step beyond the law? While the police have been given huge powers to punish crimes at their own discretion, their own crimes seem to go unpunished.

To ease these anxieties a Code of Ethics for the Police Service of Georgia has been drawn up. It will operate as a guide for police officers reminding them to act without discrimination, unnecessary force, or invasions of privacy. This ploy aimed at enhancing police reputation points to the fact that the zero tolerance policy is already

backfiring. How can the police operate respectfully towards suspected criminals when the president himself is talking about 'cleaning our streets of this rubbish'?

Fixing Broken Windows

Zero tolerance is based on the so-called 'Broken Windows' theory developed in the 1980s. Simply enough, it claims that leaving a broken window in a state of disrepair creates negligent social attitudes and disregard for the public domain that will inevitably lead to further and far worse damage. Concerning crime, the premise is induced from this analogy straightforwardly: unpunished minor offences lead to serious crimes. Here the emphasis is on law enforcement and crime prevention is achieved through deterrence. Zero tolerance policing comes with one shining reference: New York City in the 1990s. On the back of a zero tolerance crime-fighting stance between 1990 and 1998 there was a 70 percent reduction of murders and instances of violent offences dropped by 50 percent.

Whether it was indeed the zero tolerance policy that was to thank for this success in New York is of course debatable. Crime rates are closely connected with socio-economic conditions. 'Root-cause' theory claims that police simply do not matter in preventing crime; they exist as arbitrators once disputes have arisen or crimes committed. Stamp out social ills such as poverty, racism and injustice and crime lessens accordingly. Commentators on Georgia's crime problem have noted how certain embedded, informal and illegal institutions comprise a constitutive part of Georgia's sociological makeup. These include such phenomena as respect for 'thieves-in-law' (influential criminal bosses) in areas such as dispute resolution, everyday disparagement of and disregard for formal law, and corruption as closely linked to Georgian cultural values. Thus it may be argued that to reduce crime in Georgia, better to research and understand the underlying causes of crime than give the police and judiciary extraordinary powers to exact justice once the crime has been committed.

The Georgian government's hard-line stance on crime, however, lays the emphasis on fixing the broken windows, that is, law enforcement as opposed to crime prevention. However, the latter is just as important as the former, if not more so. The state of law and order in a country should not be judged by the presence of police but by the absence of crime. However it is also wrong to suggest that the police do not matter and crime rates are affected only by the state of the economy, the availability of weapons, and the use of drugs, etc. These variables' effect on crime rates is dependent on government strategy; that is, their effect is worked out within the context of policing methods. There is little evidence that deterrence by punishment on its own works, and in New York other strategies were adopted (see below) in tandem with this. What can be done to shift the stress away from fixing broken windows towards stopping the windows getting broken in the first place?

Public Order vs. Public Service

The zero tolerance strategy adopted by the New York police was not simply a matter or response-oriented policing, dealing with crimes as they happened. Instead zero tolerance also meant 'problem-solving'. Crime is not arbitrary, just like other forms of human behaviour criminal acts are set in a historical time period, follow certain

patterns and are locked into different path dependencies and affected by formal and informal social institutions. To this extent crime is predictable - recurring problems can be identified. To make this problem-solving approach effective it should be combined with localized community policing. The information and knowledge base demanded of the police requires a close proximity to the public and thus depends on high levels of social capital, that is, trust in the police. To be successful the police must transform themselves from simple law enforcers or defenders of public order, into civil servants providing a public service. The major goal of such type of policing is to raise awareness and confidence amongst the public to remain vigilant and come forward with testimony in the case of crime – the idea is that the people police themselves.

This approach runs into all sorts of problems when applied to Georgia however. Community policing is all well and good if genuine community already exists. The issue in Georgia is that a lack of civil society means a lack of grounds for implementing other police strategies other than hard-line, zero tolerance policies. In the UK areas that lack the social capital to implement community policing are termed 'poisoned soil' or more officially 'High Crime Districts.' Before a problem-oriented approach can begin in such areas tough measures are used to break up criminal groups and establish the hegemony of the police over the area: police raids must be carried out, extra patrols employed, even curfews imposed. This goes hand-in-hand with an organised public relations campaign to increase understanding for these actions and trust towards the police. However, little distinguishes these techniques from a straightforward militarism associated with a police state.

This may not be so important in a country with few High Crime Districts but in a country like Georgia, where poisoned soil is more the norm than the exception, this militarism becomes widespread and results in charges of authoritarianism against the government. These charges are getting louder in Georgia today. Opposition claims of government 'death squads' carrying out attacks on politicians start to sound more plausible to the public and, as fatalities in police operations and prison populations increase, these accusations can prove fatal for the government of a state like Georgia which suffers from such a severe crisis of legitimacy. In the last 16 years the only time the citizenry has chosen to engage fully with the state has been to overthrow it. Georgia is yet to have a democratic transfer of power and the use of zero tolerance policing without the necessary buttress of civil society to prop it up is likely to further disenchant an already disenfranchised people. The government is following a dangerous path that could rapidly overturn the gains of the Rose Revolution.

Positive & Negative Social Capital

Policing policy then should go together with policies to develop civil society. The police represent one of the most prominent interfaces at which state and society meet and penetrate each other. The problem faced by the Georgian state is that within society informal rules override the law as a means of organising social relations and interaction. A thief-in-law is more likely to develop a network of trust than a police officer. If the police are to ever play a public service role in Georgia then sufficient amounts of positive social capital must be built up. Social capital is defined here as trust, cooperative behaviour, and networks between groups. This can be both positive and negative though. For example, trust, cooperation and group networking are three things also possessed by organised crime groups. With an institutional vacuum

created during transition, social capital in countries such as Georgia exists in abundance—but in its negative form. 'Black' social networks - coordinated underground activities, black and grey markets, criminal brigades - are the type of communities that the police in Georgia have to infiltrate. Given the tight-knit fabric of Georgian society it is likely that the police, as people and maybe not in their official capacity, are already aware and are passively involved in this dimension of community in Georgia. The police then, are very much an indispensable resource in developing positive social capital and using it as a weapon against crime. Instead the current hard-line policy drives a wedge between police and people, state and society, and postpones any development of truly trusted police force that the public have confidence in and rely upon. The police, as they intersect both state and society, must not be alienated from the people they serve.

If the police must be better used to practically establish the link between crime prevention and the growth of civil society, then the government must also pursue hegemony for the idea of the inviolability of and respect for the law, and the legitimacy of the monopoly of violence owned by the police. To this extent the current government policy is inherently counterproductive: in the absence of a robust civil society the police fail to engage the public in reducing crime, law enforcement then becomes the priority over crime prevention, and the police adopt a heavy-handed and response-oriented approach in an attempt to clean up poisoned soil. However, the use of force and militaristic strategies brings out and strengthens underlying collective doubts and questions over the legitimacy of the police and, by implication, the state. This questioning continues the support for informal imbedded institutions such as rent-seeking behaviour and dispute resolution by thieves-in-law.

Moreover, imprisoning an ever greater percentage of the population is not going to help spend up the stock of negative social capital and change the prevailing attitudes to the police force. As Georgia's own experience shows, where negative social capital appears this phenomenon possibly takes its most extreme form in prison networks. Resistance to the state was fomented in the GULAG of the Soviet Union and the man that entered prison as a petty criminal would leave a well-connected and recognized bandit - this process is ongoing in Georgia today. As Otar Gamkrelidze of the Institute of State and Law in Tbilisi said recently, 'it is dangerous to send a young person to jail. He will leave as a professional criminal.'

The recent experience of Brazil shows that strong criminal unions that form in prisons can deliver serious blows to the running of a country. Interestingly, Brazil's most powerful prison gang - the First Command of the Capital (PCC) - which was behind the recent turmoil in the country, formed after a jail massacre by police in 1991. This should serve as a warning, if any was needed, that heavy-handed tactics such as the use of Special Forces or the army against prisoners, still fresh in Georgian minds now, will eventually backfire in the future. Similarly, it points towards the self-defeating and dangerous nature of a rhetoric that encourages abuse of offenders, something Saakashvili needs to quickly realise. Evidence from other developing countries such as El Salvador suggests that a zero tolerance policy has simply swelled the prison population and this has in turn merely added to organised crime by helping to develop a wider net of connected criminals who stand in absolute opposition to the state.

Conclusion

The current zero tolerance policy of the Georgian government is counterproductive and misdirected. It is likely to cause further resistance and obstacles to the creation of a law-governed society. 'Getting tough on crime' is good rhetoric for opinion polls but is unlikely to achieve major reductions in crime. Punishing petty criminals as a deterrent simply does not work without a strategy of problem-oriented, community-based policing. This in turn however, is only possible where a robust civil society exists. It is, after all, the average man on the street that is relied upon to report crime. Such actions will only occur when vigilance against crime resonates in society. Such vigilance however implies a tacit acknowledgement of the legitimacy of the state's law and its enforcement, and the illegitimacy of actions outside the law. Such legitimacy is not gained by locking up large numbers of the population for minor offences and being quick on the trigger. The government must think again about how it can help develop civil society whilst at the same time adopting such a policing policy that would allow the law enforcement agencies to engage in this development.